# **EMPLOYMENT**

Agreement Between the
UNITED STATES OF AMERICA
and ALBANIA

Amending Agreement of September 30, 1993

Effected by Exchange of Notes at Washington December 10, 2010 and February 8, 2011

with

Agreement



#### NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—

"...the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence... of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof."

### **ALBANIA**

## **Employment**

Agreement amending agreement
of September 30, 1993.
Effected by exchange of notes at Washington
December 10, 2010 and February 8, 2011;
Entered into force February 8, 2011.
With agreement.

The Department of State of the United States of America has the honor to refer to the Note of the Embassy of the Republic of Albania dated January 14, 2010 with reference to the Agreement between the Government of the United States of America and the Government of Albania related to the employment of dependents of official government employees, effected by exchange of notes at Washington August 30 and September 30, 1993, which entered into force September 30, 1993 ("1993 Employment Agreement"). While the Department of State concurs that the definition of "employees assigned to official duty" in the 1993 Employment Agreement should be amended, on behalf of the Government of the United States of America, the Department proposes the following amendments in lieu of those proposed by the Embassy:

Paragraphs 2 to 4 of the 1993 Employment Agreement, beginning with the phrase "For the purposes of this agreement, "Dependents shall" and ending with "has permission to accept employment" shall be deleted and replaced with the following:

"For the purposes of this Agreement,

'Dependents' shan include:

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Spouses

Unmarried dependent children under 21 years of age;
Unmarried dependent children under 23 years of age who are in full-time attendance as students at a postsecondary educational

Unmarried dependent children who are physically or mentally disabled; and

institution;

Any other dependent who has been issued an official visa and whose accreditation is accepted by the receiving state as a dependent member of the immediate family forming part of the household of a member of a diplomatic mission, including a diplomatic mission to an international organization, or a consular post of the sending state.

For the purposes of this agreement, employees assigned to official duty means: diplomatic agents, consular officers and members of the administrative and service staff assigned to diplomatic missions, including diplomatic missions to international organizations, and to consular posts, as well as military and civilian personnel of one Party, assigned to duty in the territory of the other Party ,to

whom the 1951 Agreement between the Parties to the North Atlantic Treaty regarding the Status of Their Forces applies ("NATO personnel").

"In the case of dependents who seek employment in the United States of America:

- a) For dependents of bilateral consular or diplomatic personnel, an official request must be made by the Embassy of the Republic of Albania to the Office of Protocol in the Department of State;
- b) For dependents of NATO personnel, an official request must be made by the sponsoring command or the Embassy of the Republic of Albania to the Legal Affairs Office, NATO/HQ SACT in Norfolk, Virginia;
- c) For dependents of employees of the Permanent Mission of the Republic of Albania to the United Nations, an official request must be made by the Mission to the United States Mission to the United Nations."

The Department of State proposes that, if the foregoing provisions are acceptable to the Republic of Albania, this note and the Embassy of the Republic of Albania's reply concurring therein shall constitute an agreement between our governments to amend the 1993 Employment Agreement which shall enter into force on the date of such reply.

Department of State

December 10, 2010



### AMBASADA E REPUBLIKËS SË SHQIPËRISË

**UASHINGTON D.C.** 

EMBASSY
OF THE REPUBLIC OF ALBANIA

WASHINGTON D.C.

Nr.Prot 11143

Washington, 08 February 2011

The Embassy of the Republic of Albania to Washington D.C. presents its compliments to the Department of State of the United States of America and, has the honour to acknowledge the receipt of the Department of State's Note, dated December 10, 2010 which reads as follows:

The Department of State of the United States of America has the honour to refer to the Note of the Embassy of the Republic of Albania dated January 14, 2010 with reference to the Agreement between the Government of the United States of America and the Government of Albania related to the employment of dependents of official government employees, effected by exchange of notes at Washington August 30 and September 30, 1993, which entered into force September 30, 1993 ("1993 Employment Agreement"). While the Department of State concurs that the definition of "employees assigned to official duty" in the 1993 Employment Agreement should be amended, on behalf of the Government of the United States of America, the Department proposes the following amendments in lieu of those proposed by the Embassy:

Paragraphs 2 to 4 of the 1993 Employment Agreement, beginning with the phrase "For the purposes of this agreement, "Dependents shall" and ending with "has permission to accept employment" shall be deleted and replaced with the following:

"For the purposes of this Agreement,

'Dependents' shall include:

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Unmarried dependent children under 21 years of age; Unmarried dependent children under 23 years of age who are in full-time attendance as students at a postsecondary educational

institution;

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Unmarried dependent children who are physically or mentally disabled; and

Any other dependent who has been issued an official visa and whose accreditation is accepted by the receiving state as a dependent member of the immediate family forming part of the household of a member of a diplomatic mission, including a diplomatic mission to an international organisation, or a consular post of the sending state.

For the purposes of this agreement, employees assigned to official duty means: diplomatic agents, consular officers and members of the administrative and service staff assigned to diplomatic missions, including diplomatic missions to international organisations, and to consular posts, as well as military and civilian personnel of one Party, assigned to duty in the territory of the other Party, to whom the 1951 Agreement between the Parties to the North Atlantic Treaty regarding the Status of Their Forces applies ("NATO personnel").

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- b) For dependents of NATO personnel, an official request must be made by the sponsoring command or the Embassy of the Republic of Albania to the Legal Affairs Office, NATO/HQ SACT in Norfolk, Virginia;
- c) For dependents of employees of the Permanent Mission of the Republic of Albania to the United Nations, an official request must be made by the Mission to the United States Mission to the United Nations."

The Department of State proposes that, if the foregoing provisions are acceptable to the Republic of Albania, this note and the Embassy of the Republic of Albania's reply concurring therein shall constitute an agreement between our governments to amend the 1993 Employment Agreement which shall enter into force on the date of such reply.

Department of State

December 10, 2010

In reply, the Embassy of the Republic of Albania has the honour to confirm on behalf of the Council of Ministers of the Republic of Albania that the Department of State's Note, together with this response Note, shall constitute an Agreement between the Governments to amend the 1993 Employment Agreement which shall enter into force on the date of this Note.

The Embassy of the Republic of Albania to the United States of America avails itself of this opportunity to renew to the Department of State of the United States of America the assurances of its highest consideration.

**DEPARTMENT OF STATE** 

UNITED STATES OF AMERICA

[August 30, 1993]

Tel:(202) 223-4942 Fax:(202) 628-7342

The Government of Albania proposes to the Department of State that, on a reciprocal basis, dependents of employees of the United States Government assigned to official duty in Albania and dependents of employees of the Albanian Government assigned to official duty in the United States be authorized to be employed in the receiving country.

For the purposes of this agreement,

"Dependents" shall include:

Spouses;

Unmarried dependent children under 21 years of age;

Unmarried dependent children under 23 years of age who are in full-time attendance as students at a postsecondary educational institution; and

Unmarried children who are physically or mentally disabled.

For the purposes of this agreement, it is understood that employees assigned to official duty includes diplomatic agents, consular officers, and members of the support staffs assigned to diplomatic missions, consular offices and missions to international organizations.

In the case of dependents who seek employment in the United States, an official request must be made by the Embassy of Albania in Washington to the Office of Protocol in the Department of State. Upon verification that the person is a dependent of an official employee of the Albanian Government, the Albanian Embassy will be informed by the Government of the United States that the dependent has permission to accept employment.

In the case of dependents of employees who seek employment in Albania, an official request must be made by the United States Embassy in Tirana to the Albanian Ministry of Foreign Affairs, which, after verification, shall then inform the United Sates Embassy that the dependent may accept employment.

The U.S. Government and the Albanian Government wish to clarify their understanding that dependents who obtain employment under this agreement and who have immunity from the jurisdiction of the receiving country in accordance with Article 31 of Vienna Convention on Diplomatic Relations or in accordance with the Convention on the Privileges and Immunities of the United Nations, or any other applicable international agreement, have no immunity from civil and administrative jurisdiction with respect to matters arising out of such employment. Such dependents are also liable for payment of income and social security taxes on any remuneration received as a result of employment in the receiving state.

The Government of Albania further proposes that, if these understandings are acceptable to the Government of the United States this note and the Government of the United State's reply concurring therein shall enter into force on the date of that reply note. This agreement shall remain in force until ninety days after the date of the written notification from either government to the other of intention to terminate.

Embassy of Albania

Arben Tashko 1 st secretary

The Department of State acknowledges receipt of note # 830/MP dated August 30, 1993, from the Embassy of the Republic of Albania and wishes to inform the Embassy that the Government of the United States of America concurs that dependents of members of Albanian diplomatic and consular posts and missions to international organizations in the United States and dependents of members of United States diplomatic and consular posts and missions to international organizations in Albania, be authorized to work in the receiving country, in accordance with the proposal contained in the aforementioned note which reads as follows:

"The Government of Albania proposes to
the Department of State that, on a reciprocal
basis, dependents of employees of the United States
Government assigned to official duty in Albania and
dependents of employees of the Albanian Government
assigned to official duty in the United States
be authorized to be employed in the receiving country.

For the purposes of this agreement,

"Dependents" shall include:

Spouses;

Unmarried dependent children under 21 years of age;
Unmarried dependent children under 23 years of age
who are in full-time attendance as students at a
postsecondary educational institution; and
Unmarried children who are physically or mentally
disabled.

"For the purposes of this agreement, it is understood that employees assigned to official duty includes diplomatic agents, consular officers, and members of the support staffs assigned to diplomatic missions, consular offices and missions to international organizations.

"In the case of dependents who seek employment in the United States, an official request must be made by the Embassy of Albania in Washington to the Office of Protocol in the Department of State. Upon verification that the person is a dependent of an official employee of the Albanian Government, the Albanian Embassy will be informed by the Government of the United States that the dependent has permission to accept employment.

"In the case of dependents of employees who seek employment in Albania, an official request must be made by the United States Embassy in Tirana to the Albanian Ministry of Foreign Affairs, which, after verification, shall then inform the United States Embassy that the dependent may accept employment.

"The U.S. Government and the Albanian Government wish to clarify their understanding that dependents who obtain employment under this agreement and who have immunity from the jurisdiction of the receiving country in accordance with Article 31 of Vienna Convention on Diplomatic Relations or in accordance with the Convention on the Privileges and Immunities of the United Nations, or any other applicable international agreement, have no immunity from civil and administrative jurisdiction with respect to matters arising out of such employment. Such dependents are also liable for payment of income and social security taxes on any remuneration received as a result of employment in the receiving state.

"The Government of Albania further proposes that, if these understandings are acceptable to the Government of the United States this note and the Government of the United State's reply concurring therein shall constitute an agreement between our two governments which shall enter into force on the date of that reply note. This agreement shall remain in force until ninety days after the date of the written notification from either government to the other of intention to terminate."

The Department of State is pleased to confirm that the Embassy's note and this note in reply constitutes an agreement which shall enter into force on today's date.

The Embassy of Albania may now submit dependent employment requests to the Office of Protocol in accordance with the procedure set forth in the attached circular diplomatic note dated April 10, 1991, and applicable INS regulations.

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Enclosure:

As stated.

Department of State,

Washington, September 30, 1993

The Secretary of State presents his compliments to Their Excellencies and Messieurs and Mesdames the Chiefs of Mission and refers to the privileges and immunities accorded members of the administrative and technical and service staffs of diplomatic missions and consular employees and members of the service staff of consular posts in the United States.

Pursuant to international law, as reflected in the Vienna Conventions on Diplomatic and Consular Relations, it is well established that members of the above listed categories who are nationals of or permanently resident in the receiving State enjoy privileges and immunities only to the extent admitted by the receiving State. In addition, under these Conventions the receiving, State has the obligation to exercise its jurisdiction over such persons in such a way as not to hinder unduly the performance of the functions of the diplomatic mission and consular post.

This note addresses the definition of the term

"permanently resident in" for the purposes of Article

38(2) of the Vienna Diplomatic Convention and Article

71(2) of the Vienna Consular Convention. Until the

present time, the United States has, for the sake of its

own convenience, equated this term with the status of

"permanent resident alien" as the latter expression is

employed in United States immigration law. This has meant that persons have not been considered "permanently resident in" the United States for the purposes of the Vienna Conventions until such time as they achieve (entirely at their own initiative) the legal status of a "permanent resident alien" (i.e., "green card" status).

Upon careful review of the definition of "permanently resident in," including the drafting of the Vienna

Conventions, the practice of other States, and the fundamental purposes of the Vienna Conventions, the Department has determined that members of the administrative and technical and service staffs of diplomatic missions and consular employees and members of the service staff of consular posts in the United States will be considered permanently resident in the United States for the purposes of the Vienna Conventions unless the employing foreign state provides appropriate documentation to indicate that the sending State:

- (1) pays the cost of the employee's transportation to the United States from the employee's normal place of residence;
- (2) undertakes to transfer the employee and his or her immediate family out of the United States within a specific time frame consistent with the sending State's transfer policy; and
- (2) undertakes to pay the cost of the employee's transportation from the United States to the employee's normal place of residence or to the country of the

employee's next assignment at the end of the employee's tour of duty in the United States.

Such documentation may include a copy of the person's contract with the employing foreign state, a copy of the person's travel orders or any other material showing that the above criteria are satisfied.

These standards shall not apply to those missions subject to a bilateral ceiling restricting the number of official employees at the mission.

Members of the administrative and technical and service staffs of diplomatic missions and consular employees and members of the service staff of consular posts who are permanently resident in the United States enjoy no privileges and immunities pursuant to the Vienna Conventions. A list of some of the privileges and immunities that are affected by being permanently resident in the United States is enclosed with this note.

So that the Chiefs of Mission may have an opportunity to review these standards and communicate them to their governments, and to prepare the supporting documentation referred to, the Department will not implement this change until June 15, 1991. Thereafter, all registrations of staff members in these categories will have to be accompanied by such documentation if the person is to be entitled to privileges and immunities pursuant to the Vienna Conventions.

Shortly after June 15, 1991, a listing of embassy and consular staff personnel registered with the Office of

Protocol as of June 15 will be forwarded to the missions. Each mission will be requested to review and update this listing and to provide no later than August 1, 1991, the appropriate documentation for those persons who will not be considered "permanently resident in" the United States.

Should any member of the administrative and technical or service staffs of diplomatic missions or any consular employee or member of the service staff of consular posts in the United States wish to settle permanently in the United States upon termination of employment with that mission it is, of course, necessary for the member to obtain the permission of the appropriate U.S. authorities for this purpose in accordance with the laws and regulations of the United States.

The Department wishes to emphasize that **all** persons working at embassies or consulates must be registered with the Office of Protocol, whether or not they are considered to be "permanently resident in" the United States.

Enclosure: List of certain privileges and immunities affected.

Department of State,

Washington, April 10, 1991.

PRIVILEGES AND IMMUNITIES THAT MEMBERS OF THE
ADMINISTRATIVE AND TECHNICAL AND SERVICE STAFFS OF
DIPLOMATIC MISSIONS AND CONSULAR EMPLOYEES AND MEMBERS OF
THE SERVICE STAFF OF CONSULAR POSTS WHO ARE PERMANENTLY
RESIDENT IN THE UNITED STATES DO NOT ENJOY INCLUDE:

- -- Immunity from criminal, civil and administrative jurisdiction.
- -- Inviolability.
- -- Duty-free importation of goods.
- -- Registration of motor vehicles through the Office of Foreign Missions.
- -- Issuance of motor vehicle and drivers licenses from the Office of Foreign Missions.
- -- Tax exemptions pursuant to Articles 34 and 37 of the Vienna Convention on Diplomatic Relations and Article 49 of the Vienna Convention on Consular Relations.

(Note: Such persons will continue to be eligible for A-2 visas, and their dependents will be entitled to request permission for employment in accordance with existing employment arrangements. In addition, diplomatic missions and consular posts may continue to enjoy certain tax privileges under U.S. law with respect to such persons. Missions and posts and their permanently resident employees may wish to consult with appropriate federal, state or local governmental authorities regarding the possible availability of any tax privileges.)